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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/993,904
Filing Date: November 27, 2001
Appellant(s): COWDEN ET AL.

Patrick D. Benedicto
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 2, 2006 appealing from the Office action mailed June 1, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Fawcett, US Patent No. 6,327,617 B1 issued on December 4, 2001, but filed on April 25, 2000.

Slotznick, US Patent No. 6,011,537 issued on January 4, 2000, but filed on January 27, 1998.

(9) G rounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

The preamble teaches the process of providing product information to a user, whereas the body of the claim teaches providing third-party information about the computer program.

The claim lacks an essential steps and/or elements in order to arrive at the intended disclosed subject matter.

There is simply no correspondence between the between the process steps disclosed in the body of the claim.

For example, between the step III and step IV.

Appellant specification teaches the process of identifying windows that offer products to users. In some embodiments of the invention, product-offering windows are deemed to be good windows and not blocked by window analyzer (see specification, page 27 line 12-21), however, there is no suggestion in the claims of the process of analyzing the window in order to determine whether a window is good or bad.

Furthermore, the specification discloses the process wherein window analyzer retrieves a description for the detected CLSID from product list 322, and then commands UI manager to display a message box 902 containing the description as show in fig. 9B. As can be appreciated, third-party information about the computer program, such as that provided by box 902, allows the user to make a more meaningful decision (specification, page 28 line 20 to page 29 line 5

The second window is only displayed to the user when the window analyzer commands the UI manager to display a message, however, the claim fails to disclose displaying a second window in response to the command from the window analyzer.

Hence, the claim either lacks the essential step(s) or is incomplete, enabling the preamble and the body of the claim to be distinct, thus rendering the claim indefinite or inoperable.

Dependent claims 2 and 4-6 are rejected due to their dependency on claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1, 2, 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fawcett (U. S. Patent No. 6,327,617 B1) in view of Slotznick (U. S. Patent No. 6,011,537).

As per claim 1, Fawcett discloses a method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising: determining if the first window includes offer to download a computer program (col. 10 L25-35); identifying the computer program (col. 6 L29-49, col. 8 L43-59, col. 11 L27-60); and displaying a second window in the computer, the second window including third party information about the computer program (col. 10 L53-64), however Fawcett does not disclose the process of detecting an occurrence of a first window in the computer.

Slotznick, from the same field of endeavor discloses the process of delivering and displaying information in form of a window or a frame (see abstract, col. 6 L15-41, col. 15 L1-31). In one embodiment, Slotznick discloses the process of detecting an occurrence of a first window in the computer (col. 20 L40-50, col. 20 L51 to col. 21 L19, col. 23 L55-67, col. 35 L12-44, col. 40 L11-65).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Fawcett in view of Slotznick in order to detect a window in the computer, since Slotznick teaches the process of detecting the occurrence of the windows in the computer.

One of ordinary skilled in the art would have been motivated so that only appropriate information is displayed to the user (Slotznick, col. 20 L50 to col. 21 L11, col. 35 L12-44).

As per claim 2, Fawcett in view of Slotznick discloses the process wherein the first window is launched by a web browser (Slotznick, col. 37 L13-57).

As per claim 4, Fawcett discloses the process wherein the act of identifying the computer program includes looking up a class identification (simply interpreted as version number) of the computer program (col. 6 L29-49).

As per claim 5, Fawcett discloses the process wherein the act of identifying the computer program includes consulting a product list (col. 8 L42-64, col. 11 L46-60).

As per claim 6, Fawcett discloses the process wherein the product list is updateable by downloading a new product list from a remote computer to the computer (col. 5 L15-45).

As per claim 7, Fawcett discloses a computer memory comprising: a product list, the product list including a list of computer programs and a description of each of the computer

programs (col. 8 L43-64, col. 11 L27-60), the description of each of the computer programs comprising third-party information that helps users decide whether they should install a computer program being offered for download (col. 10 L42-64, col. 5 L54-64); a window analyzer, the window analyzer including a code for detecting whether the new window is offering a computer program listed in the product list for download (col. 10 L25-43); a user interface manager, the user interface manager including computer-readable program code for displaying third party information about the computer program offered in the new window and listed in the product list (col. 10 L53-64), however Fawcett does not disclose a listener for detecting the opening of a new window in the computer.

Slotznick, from the same field of endeavor discloses the process of delivering and displaying information in form of a window or a frame (see abstract, col. 6 L15-41, col. 15 L1-31). In one embodiment, Slotznick discloses the process of detecting an occurrence of a first window in the computer (col. 20 L40-50, col. 20 L51 to col. 21 L19, col. 23 L55-67, col. 33 L22 to col. 34 L67, col. 35 L12-44, col. 40 L11-65).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Fawcett in view of Slotznick in order to detect a window in the computer, since Slotznick teaches the process of detecting the occurrence of the windows in the computer.

One of ordinary skilled in the art would have been motivated for the same reasons as set forth in claim 1.

(10) Response to Argument

The examiner summarizes various arguments raised by the appellant and addresses replies individually.

In an appeal brief, appellant argues in substance that:

a. Claims 1, 2 and 4-7 rejected under 35 U.S.C. 101 as being directed towards the non-statutory subject matter (Appeal brief, page 4, VII. A., page 5, VII. B.). The rejection is respectfully traversed.

In view of appellant's arguments, Examiner herein withdraws the 35 U.S.C. 101 rejection, with respect to claims 1, 2 and 4-7, because the claims are directed towards a "method" and "system".

b. The 35 U.S.C. 112, second paragraph rejection with respect to claims 1, 2, 4-6 is traversed (See appeal brief, page 6, VII. C.).

In response to argument [b], Examiner respectfully disagrees.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

The claim is considered indefinite because the preamble teaches the process of providing product information to a user, whereas the body of the claim teaches the process of providing third-party information about the computer program to the user.

The claim either lacks an essential step(s) and/or is incomplete.

There is no correspondence between step III and step IV of the claim.

For example, the specification teaches that window analyzer retrieves a description for the detected CLSID from product list 322, and then commands UI manager to display a message box 902 containing the description as show in fig. 9B. As can be appreciated, third-party information about the computer program, such as that provided by box 902, allows the user to make a more meaningful decision (specification, page 28 line 20 to page 29 line 5).

The display of the second window in the computer including third-party information is only achieved in response to window analyzer retrieving description and then commanding UI manager to display a message containing the description.

However, the claim does not disclose such a teaching rendering the claim incomplete and indefinite which affects the body of the claim, hence, resulting in a distinct utility than that disclosed in the preamble.

IF the claim recites: "displaying a second window in the computer, the second window including the description of the computer program", then the usefulness achieved by executing the process steps in the body of the claim would be same as that disclosed in the preamble.

For the at least these reasons, the rejection should be sustained.

c. Claim 1 is patentable over the combination of Fawcett and Slotznick at least for reciting: "determining if the first window includes an offer to download a computer program." Fawcett does not teach or suggest this limitation because Fawcett's system provides both the offer to download and downloadable program. That is, Fawcett's update service provides the window displaying the updates available for download, and therefore does not have to "determine" if that window includes an offer to download (Appeal brief, page 7, section D, page 10 section E.).

In response to argument [c], Examiner respectfully disagrees.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

Before addressing the argument above, a brief discussion of the prior art is presented:

Fawcett discloses the system for automatically identifying software that may be appropriate for installation on computer and for making that software available to that computer (col. 1 L20-30). In one aspect of the invention, available computer software can be downloaded from the remote update service computer and installed immediately on the user computer (col. 2 L39-60).

The update service has several advantages. A user is automatically provided with information about the available versions of computer software as a result of the inventory (col. 3 L16-28). In addition to providing benefits to the user, the developers of the computer software

save support, distribution and advertising costs. A user who calls the update service automatically obtains up-to-date versions of software (col. 3 L39-57).

Fawcett discloses the process wherein if a new version of existing computer software or new software is available, the user is asked if she wishes to purchase the computer software. If so, the appropriate fee is requested from the user...(col. 10 L25-42).

Without "determining, if the first window includes offer to download computer program", the users in Fawcett will not be able to purchase the software. In order to download the computer program from the update service, an information-retrieving program has to identify the offer to download the computer program in order to download the computer program into the computer.

As such, Fawcett does teach the process of determining if the there is an offer to download the computer program, which is equivalent to determining if the first window includes an offer to download the computer program.

Furthermore, the claim fails to disclose if the functionality of determining if the first window includes an offer to download the computer program is with respect to a user or a program.

As per appellant, "Fawcett does not teach or suggest this limitation because Fawcett's system provides both the offer to download and downloadable program. That is, Fawcett's update service provides the window displaying the updates available for download, and therefore does not have to "determine" if that window includes an offer to download", however, appellant has failed to provide any evidence showing and/or proving this scenario.

For the at least this reason, appellant argument should be reversed.

d. Claim 1 is also patentable over the combination of Fawcett and Slotznick at least for reciting: "identifying the computer program." (Appeal brief, page 7, section D).

In response to argument [d], Examiner respectfully disagrees.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

Fawcett clearly teaches the process of identifying the computer program being offered for download in the first window, as shown herein.

The update service identifies plurality of software to download and displays the list to the user so that the user can identify the software available for download in the window, by selecting the appropriate software among the plurality of offered software (see the figure below).

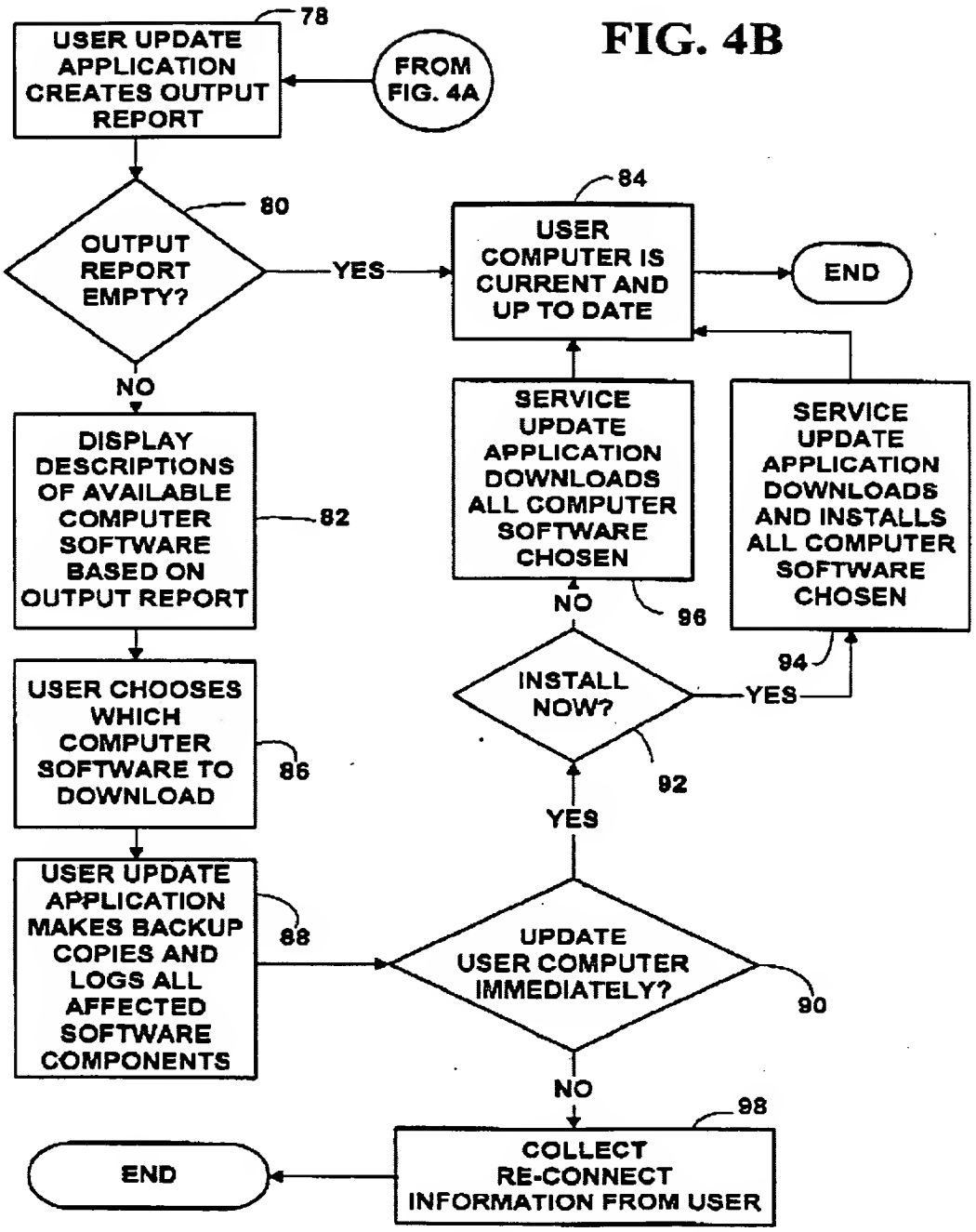
78
USER UPDATE APPLICATION CREATES OUTPUT REPORT
FROM FIG. 4A
80
OUTPUT REPORT EMPTY?
YES
NO
84
USER COMPUTER IS CURRENT AND UP TO DATE
END
DISPLAY DESCRIPTIONS OF AVAILABLE COMPUTER SOFTWARE BASED ON OUTPUT REPORT
82
SERVICE UPDATE APPLICATION DOWNLOADS ALL COMPUTER SOFTWARE CHOSEN
SERVICE UPDATE APPLICATION DOWNLOADS AND INSTALLS ALL COMPUTER SOFTWARE CHOSEN
NO
96
USER CHOOSES WHICH COMPUTER SOFTWARE TO DOWNLOAD
86
INSTALL NOW?
YES
94
92
YES
USER UPDATE APPLICATION MAKES BACKUP COPIES AND LOGS ALL AFFECTED SOFTWARE COMPONENTS
88
UPDATE USER COMPUTER IMMEDIATELY?
90
NO
98
END
COLLECT RE-CONNECT INFORMATION FROM USER

FIG. 4B

Step 86 is clear in its context. That is, step 86 above clearly indicates the process wherein the user chooses, i.e. identifies, which one of the software to download from available software.

Also note that the claim does not indicate that the functionality of identifying the computer program is not with respect to a user.

Furthermore, Fawcett clearly discloses the process wherein "the user has the option of choosing none, one, or a number of computer software components to download and install" (See Fawcett, col. 8 L43-64).

Without the identification of the computer program, it will be nearly impossible to download and install computer programs.

Furthermore, Examiner disagrees with the appellant's allegation, on page 8 of the appeal brief, that "there is no need for Fawcett's service to identify programs listed in a window because Fawcett's service displays that window in the first place. Fawcett's service knows what it displays in the window so it does not need to identify the computer programs listed in the window".

As is known in the art, a computer system runs plurality of computer programs and/or applications. The update service of Fawcett displays plurality of computer software available for download, not just a single computer program (see Fawcett, col. 11 L26-60) and it will not be practical to download all the computer programs listed by the update service because the user may only be interested in one or some of the listed computer programs.

As such, there is certainly a need for identifying the appropriate computer software displayed or listed by the update service for downloading only the required software programs.

Also note that the claim fails to teach or suggest the process of "identifying the computer programs listed in the offering window". The claim simply suggests identifying the computer programs.

Please note: Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In any event, Fawcett explicitly discloses the process of identifying the computer program listed in the window, as set forth above. In other words, the whole process of identifying, determining, and displaying is with respect to an application, i.e. an installation application, where the software programs are listed and identified, which can be interpreted as a window at least based on the applicants disclosure (see applicants originally filed specification, page 5-6), wherein the term "**window" is used to refer to any mechanism for presenting information to a user**."

Therefore for the at least these reasons, appellant argument directed towards the distinction between the prior art and the claimed subject matter, should be reversed.

e. Claim 1 is also patentable over the combination of Fawcett and Slotznick at least for reciting: "displaying a second window." The combination of Fawcett and Slotznick operates on a single window, the one offering the computer program. In marked contrast, claim 1 requires a second window displaying third party information (Appeal brief, page 8, second paragraph).

In response to argument [e], Examiner disagrees.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

The part of the appellant disclosure is reproduced herein:

In the present disclosure, the term "window" is used to refer to any mechanism for presenting information to a user. Thus, the term "window" also includes message boxes, dialog boxes, text boxes, banners, etc. A window may be associated with a web browser, or may be generated as a result of receiving information from another computer over the network...(See specification, page 5 line 19 to page 6 line 5).

In one embodiment, product list 322 includes a description of computer programs to aid users in deciding whether they should install a computer program being offered to them. The descriptions may be gathered by a human researcher by reading other reviews of the computer program or by independent testing. Thereafter, the descriptions are entered into a product list 322, where they are matched with corresponding CLSIDs. Product list 322 may be updated from time to time by downloading a new product list 322 from a support server computer 103.

FIG. 9A schematically illustrates a dialog box 901 offering a downloadable computer program to a user. From a CLSID included in the HTML code that generated dialog box 901, window analyzer 308 detects dialog box 901 as offering a downloadable computer program from a specific vendor. Accordingly, window analyzer 308 retrieves a description for the detected CLSID from product list 322, and then commands UI manager 320 to display a message box 902 containing the description as shown in FIG. 9B. As can be appreciated, third-party information about the computer program, such as that provided by message box 902, allows the user to make a more meaningful decision as to whether to install the computer program on her computer (See specification, page 28 line 13 to page 29 line 5).

Appellant's disclosure is evidenced for defining the term "window" as any mechanism for presenting information to a user.

The term "third-party information" is simply interpreted as the information that helps user to make an informed decision. Such information may include "features of the software offered, summary of the software, etc.".

Fawcett clearly teaches the process wherein "if a new version of computer software, or new computer software is available to download, the user is asked if she wishes to purchase the computer software. If so, the appropriate fee is requested from the user...if the user chooses not to pay for new version of computer software when the update service is called, additional data from which the user can obtain more information on the new computer software is displayed. For example, the information may contain a summary of the features of the computer software..." (See Fawcett, col. 10 L25-64).

Fawcett's process of presenting or displaying the additional data such as features and summary of the compute program is equivalent to displaying in a second window in the computer the third-party information, based on at least two reasons:

(i) the window is referred as any mechanism for presenting the information (see appellant specification above); and in Fawcett the additional data is presented to the user;

(ii) third-party information is nothing more than information about the computer program; and in Fawcett the additional data is referring to the summary of the features of the computer program.

Furthermore, appellant failed to provide any sufficient evidence showing that Fawcett's system conventionally operates on the same window rather than just stating that Fawcett conventionally operates on the same window.

For the at least these reasons, appellant argument should be reversed.

f. Claim 1 is also patentable over the combination of Fawcett and Slotznick at least for reciting: "the second window including third party information about the computer program (appeal brief, page 8, paragraph 3, page 10 section E., page 11).

In response to argument [f], Examiner disagrees.

Examiner acknowledges the usage of the term "third-party" in the relevant art, as it is a common phrase.

Claim 1 recites:

> A method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising:
> detecting an occurrence of a first window in the computer;
> determining if the first window includes an offer to download a computer program;
> identifying the computer program; and
> displaying a second window in the computer, the second window including third party information about the computer program.

Please note that the claim refers to third party information, and not the process wherein the third party is providing the information.

Based on the appellant disclosure, the term "third-party information" is nothing more than the information about the computer program that aids users in making more informed decision.

As is known in the art, such information can be any information regarding the computer program that helps user decide whether to purchase or not to purchase the computer software.

As set forth in response to argument [e] above, Fawcett clearly teaches the process wherein "if a new version of computer software, or new computer software is available to download, the user is asked if she wishes to purchase the computer software. If so, the appropriate fee is requested from the user...if the user chooses not to pay for new version of

computer software when the update service is called, additional data from which the user can obtain more information on the new computer software is displayed. For example, the information may contain a summary of the features of the computer software..." (See Fawcett, col. 10 L25-64).

The limitation "summary of the features of the computer program" is equivalent to "third-party information" because it provides the description of the computer software aiding the user in making an informed decision of downloading the computer software.

For the at least this reason, appellant argument should be reversed.

g. Claim 1 is also patentable over the combination of Fawcett and Slotznick at least for reciting: "detecting an occurrence of a first window in the computer." (Appeal brief, page 8-9, page 11).

In response to argument [g], Examiner disagrees in light of the following:

As set forth above, the term "window", as per appellant disclosure, is used to refer to any mechanism for presenting information to a user. Thus, the term "window" also includes message boxes, dialog boxes, text boxes, banners, etc. A window may be associated with a web browser, or may be generated as a result of receiving information from another computer over the network...(See specification, page 5 line 19 to page 6 line 5).

Fawcett, as indicated in the rejection, does not disclose the process of detecting an occurrence of a first window in the computer. This, however, does not mean that there is no need for detecting the occurrence or opening of window, as contended by the appellant.

Slotznick's invention is related to an apparatus, device or method for delivering and displaying secondary information on a screen, display, etc. (See col. 1 L19-26).

Slotznick, from the same field of endeavor explicitly discloses the process of delivering and displaying information to the user in form of windows (see Abstract, fig. 10), wherein such information can include text, graphics, images, tables, frames, software, programs, applications, etc. (col. 8 L25-44).

Slotznick further teaches the process wherein a user logs on and contacts the remote source for information. The device is also configured to check if it is currently displaying a trailing page (i.e. a window with information or data, col. 20 L25-50). That is, the device detects the occurrence or opening of the page.

As used in Slotznick, the term "secondary information" refers to advertisements, promotional material such as banner ads, etc. The secondary information may be retrieved (accessed and downloaded) after the primary information is retrieved (col. 24 L10-65).

In addition to above subject matter, Slotznick also discloses a filtering software implemented in conjunction with the browsing or other software for displaying information. The filtering software monitors the transmission to and from the user and filters the inappropriate information, data, websites, content, etc. (see Slotznick, col. 33 L29 to col. 34 L26).

The filtering program intercepts, blocks and/or modifies the secondary information and its display (Slotznick, col. 34 L27-67). The filter may continue to monitor the device to prevent display of additional unwanted secondary information (col. 35 L12-44).

In order for the filtering program to filter the unwanted secondary information, the filtering program has to detect the occurrence or opening of the secondary information such as

advertisements, ads, banners, etc., examine and/or analyze the content of the secondary information and block or display the secondary information accordingly.

The feature "detecting the occurrence or opening of the window" is inherent in the filtering software known in the art, because without detecting and analyzing the windows or information, the functionality of blocking and/or displaying (i.e. filtering) the windows or information would be impossible, which is a core functionality and/or utility of said filtering software.

Examiner further disagrees with the appellant's statement that "Data and the window displaying the data are not the same".

Appellant has explicitly defined the usage of the term "window" as any mechanism for presenting the information to the user (See specification, page 5-6).

Slotznick teaches the process of detecting, blocking and/or displaying the secondary information or data such as advertisements, ads, banners, etc. The displayed data are presented to the user, a mechanism that presents the data to the user.

It is unclear to the Examiner as how the "displayed data and the window displaying the data are not the same"?

In the networking art, the data is presented to the user in form of websites or web pages, documents, applications, etc. All these forms of presenting information to the user can be referred as windows presenting the data to the user.

For the at least these reasons, appellant argument should be reversed.

h. The proposed motivation to combine Fawcett and Slotznick is suspect (appeal brief, page 9, page 12).

In response to argument [h], Examiner respectfully disagrees.

Claim 1 stands rejected as follows:

As per claim 1, Fawcett discloses a method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising: determining if the first window includes offer to download a computer program (col. 10 L25-35); identifying the computer program (col. 6 L29-49, col. 8 L43-59, col. 11 L27-60); and displaying a second window in the computer, the second window including third party information about the computer program (col. 10 L53-64), however Fawcett does not disclose the process of detecting an occurrence of a first window in the computer.

Slotznick, from the same field of endeavor discloses the process of delivering and displaying information in form of a window or a frame (see abstract, col. 6 L15-41, col. 15 L1-31). In one embodiment, Slotznick discloses the process of detecting an occurrence of a first window in the computer (col. 20 L40-50, col. 20 L51 to col. 21 L19, col. 23 L55-67, col. 33 L22 to col. 34 L67, col. 35 L12-44, col. 40 L11-65).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Fawcett in view of Slotznick in order to detect a window in the computer, since Slotznick teaches the process of detecting the occurrence of the windows in the computer.

One of ordinary skilled in the art would have been motivated so that the appropriate information is displayed to the user (Slotznick, col. 20 L50 to col. 21 L11, col. 35 L12-44).

The motivation is clear in its context, i.e. displays appropriate information including offers to download such as ads and promotional items, features, summary and reviews of the computer program to the user.

Fawcett discloses a method and system for identifying and obtaining computer programs from a remote computer (See Abstract). The update service alerts the user to new products and new and enhanced versions of existing products, which can be purchased electronically by a user from the update service (See Abstract, col. 2 L40-60).

Appellant alleges that "the motivation to combine is suspect because Fawcett already displays the listing of downloadable computer program to the user – Fawcett has no further need to display information to the user." (see appeal brief, page 9).

In response to this allegation, Appellant has failed to provide any sufficient evidence showing that there is no need to display information to the user in Fawcett.

The need exists because without the detection and analyzation of the occurrence of the window, plurality of undesired information will be provided to the user.

As such, it is extremely important and necessary to detect the occurrence of the window or information, analyze the content of the window or information and display only the appropriate information to the user while blocking the undesired information to the user, as disclosed by Slotznick.

Technically, it would be beneficial to modify Fawcett in view of Slotznick in order to detect the occurrence or opening of the window so that the window can be analyzed in order to display only appropriate information to the user, as disclosed in Slotznick (col. 33 L29 to col. 34 L67 and col. 35 L12-44).

Therefore, for the reasons above, appellant argument directed towards the distinction between the prior art made of record and the claimed invention, should be reversed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Art Unit 2151
January 5, 2007.

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